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STATE OF MAINE
TASK FORCE ON KINSHIP FAMILIES

MEMORANDUM

To: Members, Task Force on Kinship Families
From: Jane Orbeton and Karen Nadean-Drillen, OPLA
Date: October 18, 2010
Re: Ideas for Implementing the Recommendations from Meeting #3, September 28, 2010

I. Probate Court and District Court procedures

A. Establish a *required or* advisory timeline for rehabilitation and reunification efforts in informal kinship care situations.

- Probate Code could be amended to require the Court to review each guardianship order every 6 or 12 months.
- Probate Code could be amended to require a guardian to petition for either adoption or termination of the guardianship 12 months after entry of the guardianship order.
- Family matters law (parental rights determinations in District Court) could be amended to require review every 12 months of each order in which a kinship family is given parental rights and responsibilities.

B. Provide legal representation for kinship families in the informal system through cooperation with UM School of Law, Volunteer Lawyers Project (VLP) and Cumberland Legal Aid Clinic (CLAC).

- DHHS, Office of Child and Family Services could be directed in law to convene a stakeholders group to discuss legal representation of informal kinship families with the Law School, VLP and CLAC and to report back to the Health and Human Services Committee by November 1, 2011. The group would include representatives of families, parents and children and the Probate Courts and District Courts.

C. Change Probate Court procedure and standard for modification or termination of a guardianship; change the law to recognize the value of stability in the kinship family.

- Probate Code could be amended to lengthen the time period of the power of attorney from its current length of 6 months.
- Probate Code and education statutes could be amended to specifically authorize school registration by the person holding the power of attorney.

- Title 19-A, section 1653, subsection 3 definition of “best interests of the child” could be amended. Currently, the provision requires the Court to consider as primary the safety and well-being of the child, and requires the Court to consider 15 factors.

With regard to “the value of stability” the list includes:

- *the child’s primary caregiver,*
- *the bonding and attachment of each party and the child,*
- *the interaction and interrelationship of the child with the parties, siblings and any other person who may significantly affect the child’s best interest,*
- *the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity,*
- *the permanence, as a family unit, of the existing or proposed home,*
- *the child’s adjustment to home, school and community,*
- *the capacity and disposition of the parties to give the child love, affection and guidance and to continue educating and raising the child in the child’s culture and religion or creed, if any, and*
- *all other factors having a reasonable bearing on the physical and psychological well-being of the child.*

II. Enlist Maine Housing to protect kinship families in rental housing.

- Maine Housing could be directed by law to convene a working group that includes Maine Housing staff, public housing authorities, section-8 landlords and associations that represent private landlords? The working group could review kinship family issues, work toward resolution of situations that assist children and kinship families and report back to the Health and Human Services Committee by November 1, 2011.

III. Require Family Law Advisory Council (FLAC) to make recommendations on the recommendations regarding the Probate Court in I(A) and I(C) above.

- Task Force could vote to send a letter to FLAC asking that they consider recommendations I(A) and I(C) and provide input to the legislative process next winter.

IV. Provide or require mediation prior to a contested court hearing on a kinship family guardianship matter and on educational issues.

- Probate Code could be amended to require contested kinship family guardianship matters to go to mediation prior to a hearing or mediation may be offered as an option, but not mandatory.
- Department of Education already provides mediation as an option in Individuals with Disabilities Act (IDEA) cases.

V. Ask Probate Court judges for input on Probate Court recommendations I(A) and I(C) above.

- Task Force could vote to send a letter to the Probate Judges Assembly and the Registers of Probate to bring to their attention recommendations I(A) and I(C) and to ask that they consider the issues and provide input to the legislative process next winter.

VI. Send letter to Department of Health and Human Services (DHHS) memorializing that DHHS has agreed to do the following (without the need for legislation):

- Improve DHHS training, practice, procedures and reimbursement rules – adopt best practices training to standardize policies and procedures, and improve family team meeting casework practice;
- Expand Parents as Partners peer-to-peer program; and
- Develop a “suitcase” program for children in transition out of their homes.